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Law of the Sea Country Study

South Korea

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FOREWORD

The Law of the Sea Country Studies are prepared to support the NSC Interagency Task Force on the Law of the Sea. The countries to be included in the series are selected on the basis of priorities suggested by the chairman of the Task Force.

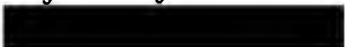
Each study has two parts. Part I is an analysis of the primary geographic, economic, and political factors that might influence the country's law of the sea policy, the public and private expressions of that policy, [REDACTED] Part II provides basic data and information bearing on law of the sea matters.

This study was prepared by the Office of Basic and Geographic Intelligence. [REDACTED]

The study was coordinated within the Directorate of Intelligence and with the Department of State. Comments and questions may be directed to the LOS Country Studies Working Group, Code 143, Extension 2257.

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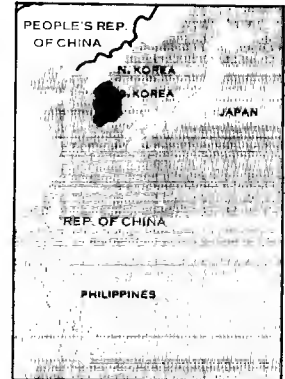
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SOUTH KOREA

Part I - Law of the Sea Analysis

A. SUMMARY

South Korea was neither a participant in the six preparatory meetings for the LOS Conference nor has it publicly addressed the issues. Nevertheless, it is possible to discuss the position that the South Koreans are likely to take on some of the issues based on a number of unofficial comments, its geopolitical/economic situation, and several incidents that have occurred in its marginal seas.



South Korea is likely to agree to a 12-mile territorial sea and may support the U.S. position on unimpeded passage through international straits, on the condition that its strong interest in restricting passage through the 13-mile wide Cheju Strait is accommodated. South Korean officials have stated that the Western Korea Strait would remain international under a 12-mile territorial sea regime. The South Koreans will probably favor a 200-mile coastal economic zone; but considering the hopes held for petroleum wealth beneath their continental shelf, they will probably be reluctant to support revenue sharing from within this area. They will, however, be likely supporters of freedom of navigation and overflight beyond the territorial seas, and they could probably be persuaded to agree to the U.S. position on freedom of scientific research. As an emerging distant-water and deepsea fishing state with few historic distant-water rights, South Korea may seek to minimize coastal state control over fisheries.

B. FACTORS INFLUENCING LOS POLICY

Special Geographic Features

South Korea is a peninsular state with coasts bordering the Yellow Sea, the Cheju Strait, the East China Sea, the Western Korea Strait, and the Sea of Japan. Two international straits lie off the coast of South Korea -- 1) the 13.3-mile-wide Cheju Strait between the mainland and Korean island of Cheju-do, and 2) the 22.8-mile-wide Western Korea Strait between South Korea and the Japanese island of Tsushima.

South Korea shares the broad Yellow Sea continental shelf with the People's Republic of China (PRC) and North Korea, the East China Sea shelf with the PRC and Japan, and the Western Korea Strait shelf with Japan. South Korea's shelf in the Sea of Japan is approximately 10 miles in breadth.

South Korea claims two remote islands in the Sea of Japan, Ullung-do and the Liancourt Rocks (Dak-do or Take Shima). Its claim to the former is uncontested, but Japan claims the latter. The five islands that lie just below the Northern Limit Line (NLL) in the Yellow Sea, placed under Seoul's administration by the 1953 Korean Armistice, are within a hypothetical North Korean 12-mile territorial sea. The two easternmost islands of this group, Yonp'yong-do and U-do, lie within a hypothetical South Korean straight baseline. U-do, the easternmost of the two, lies north of the Armistice Line but south of the NLL.

Uses of the Sea

The sea provides the South Korean population with 60-70 percent of its animal protein. Coastal fisheries have been the primary source, but deep sea fisheries are increasing in importance. South Korea's deep sea fishing fleet ranges worldwide, fishing primarily for tuna and Alaska pollack.

One joint Korean-American and three non-Korean oil companies are currently exploring for petroleum in concessions granted by Seoul in the Yellow Sea, East China Sea, and Western Korea Strait shelves adjacent to South Korea. The successful exploration of these offshore concessions is extremely important as South Korea produces no domestic crude petroleum.

The country's peninsular situation has forced it to rely heavily on sea transport for both domestic and foreign commerce. Korea's joint government/private Korea Shipping Corporation maintains routes to the United States and to eastern and southeastern Asia, while two privately owned lines engage in worldwide tramp operations.

Political and Other Factors

South Korea has amicable relations with only two of the five states--Japan and Taiwan--with which it shares its adjacent waters. The animosity that exists between North and South Korea is reflected in Seoul's attitude on the straits issue that indicates an intention in part to deny P'yongyang use of Cheju Strait. Seoul's strong feelings on this issue were illustrated in mid-1973 by its response to an incident involving the Soviet delivery through the strait of a warship to a North Korean Yellow Sea port. The government seriously

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considered declaring the strait internal waters by extending straight baselines to Cheju-do and increasing South Korea's 3-mile territorial sea to 12 miles. On U.S. advice the idea was shelved pending the outcome of the LOS Conference or other developments in the area. Washington's ability to successfully intervene was undoubtedly due to the existing close U.S.-South Korea ties, a fact that may enable the United States to influence South Korea's policy on other LOS issues.

South Korean relations with China and the U.S.S.R., although cool, may improve. Seoul has publicly offered to discuss with Peking the equitable division of their common Yellow Sea and East China Sea shelves, and it has made private overtures to Moscow for closer ties, reportedly offering the Soviets the use of port facilities on Cheju-do.

C. LAW OF THE SEA POLICY

Territorial Sea

South Korea will almost certainly agree to a 12-mile territorial sea. It has considered extending the current 3-mile claim to 12 miles in response to the Soviet warship incident, and Seoul already has prepared a plan for establishing a straight baseline system. Cheju-do and the coastal islands in the Western Korea Strait and Yellow Sea would be included in the system, Ullung-do and the Liancourt Rocks would not. Each of the latter would have a 12-mile territorial sea.

Straits

South Korea has indicated that it will probably agree to some form of unimpeded passage through international straits--most likely close to the U.S. position so long as Cheju Strait is excepted. Cheju-do is a separate province of South Korea. It is likely that Seoul views the strait as part of the country's internal waters and probably now only tolerates international transit through it. The volume of traffic is probably low, as the strait is useful only for transit between the Yellow Sea and the Korea Strait. There are reports that Seoul plans to put a large oil storage facility on Cheju-do; it would certainly be more satisfactory to transport the oil between island and mainland within waters under its sovereignty.

South Korea may support a modified form of Italy's straits proposal. Italy's proposal is designed to except from a free transit regime those straits that: 1) are up to six miles wide, 2) are bordered on both sides by the same state, and 3) have an alternate route. Although Cheju Strait is wider than six miles, South Korean territory does lie on both sides, and a 35-mile longer alternate route (south of

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Cheju-do) is available. South Korean officials have stated that the Western Korea Strait would remain international under a 12-mile territorial sea regime.

Continental Shelf

South Korea will probably support the 200-mile limit for continental shelf jurisdiction. It would not conflict with Seoul's current shelf claims in the shallow waters of the Yellow Sea, East China Sea, and the eastern Korea Strait, and it would give Seoul international recognition to a claim over a considerable portion of the shelf and seabed of the Sea of Japan. The government's continental shelf claim in the Sea of Japan is presently described only by the rather vague 1952 Rhee Proclamation as being "adjacent to the...coasts of the national territory, no matter how deep it may be." If an opportunity occurred, South Korea would also support the establishment of special semienclosed sea regimes that incorporate division by median lines. When applied to the Sea of Japan, such a regime would increase Seoul's shelf/seabed jurisdiction approximately 50 miles over the 200-mile limit between the 38th parallel and the eastern terminus of the demilitarized zone where the sea approaches 500 miles in width.

The basis of Seoul's shelf claims in the Yellow Sea and the East China Sea is probably a combination of the "natural prolongation of land territory" concept (International Court of Justice decision in the North Sea Continental Shelf Cases, 1969) and the 1945 Truman Proclamation. The former stresses a state's right to a "just and equitable share" of the adjacent shelf and the latter, the use of "equitable principles" when dividing the shelf among bordering states. Reportedly, the Truman Proclamation still has some influence on the thinking of South Korean lawyers. Seoul did not sign the Convention on the Continental Shelf, rejecting the 200-meter limit as arbitrary and outmoded by technology. Further, a 200-meter limit would give South Korea only a 10-mile-wide coastal economic zone in the Sea of Japan.

Coastal State Jurisdiction Beyond the Territorial Sea

Although South Korea favors complete coastal state jurisdiction over the continental shelf, it is wary of strong comprehensive coastal state control of the water column above it. As an emerging deep sea and distant water fishing state, South Korea would want minimum coastal state control of fisheries. South Korea plans by 1981 to increase fish production by 50 percent and fish exports by 36 percent; virtually all of the catch will have to come from beyond Korea's exclusive 12-mile coastal fishing zone, which is currently fished to near the maximum sustainable yield.

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The Rhee proclamation of 1952, like the Truman Proclamation, did not interfere with freedom of navigation beyond the territorial sea; there is no reason to believe that Seoul would change its view.

South Korean lawyers question the concept of revenue sharing within the coastal state economic zone, feeling that it would discourage commercial exploitation. Should petroleum be discovered in the coastal zone the government would be reluctant to share the resulting revenues.

Fisheries

South Korea probably would favor minimal coastal state control of fisheries in view of its plans to increase its distant water fishing activities dramatically. As a new distant-fishing state, South Korea has few historic fishing rights and hence will have limited access to the unutilized portion of the coastal economic zone fish stocks. South Korea probably would not refuse to sign a convention, however, that contained strong coastal state control over fisheries. Rather, Seoul would seek to fill its increasing demand for fish through bilateral fishing agreements, such as those it has with the United States, El Salvador, Japan, Spain, and Uruguay.

High Seas

Accessible to its trading partners only by the sea, South Korea is unlikely to support measures that would restrict freedom of navigation and overflight on the high seas.

Deep Seabed

South Korea will undoubtedly support revenue sharing in the international deep seabed area.

Land-Locked States, LDC's, Disadvantaged States

South Korean lawyers view their State as a less developed country (LDC) and envision a possible confrontation with the developed countries over LOS issues. They believe that the LDC's should receive preferential treatment and, therefore, may support measures that are blatantly weighted in favor of the disadvantaged states. In February 1971, South Korean officials implied that the "preferential provisions" of Article III (Fisheries) of the current U.S. LOS proposal should apply only to coastal LDC's rather than to coastal states as a group.

Seoul has shown concern for land-locked states and will probably support measures favoring them. In January 1973 at the Asian-African

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Legal Consultative Committee meetings in New Delhi, Seoul supported the Kenyan proposal for the protection of navigation and overflight rights for land-locked states.

Scientific Research

The discovery of the petroleum-bearing potential of its continental shelf has made Seoul aware of the need for freedom of scientific research. This, coupled with its opposition to broad coastal state control of the seas, support for freedom of navigation and overflight outside the territorial sea, and close ties with the United States indicate that it is likely Seoul could be persuaded to support the U.S. position on this issue.

D. KEY POLICY MAKERS

Seoul's delegates to Caracas probably will be limited in their authority to negotiate their country's LOS policy. Major decisions will be made in Seoul through normal foreign affairs machinery, but ultimately by President Pak.

At present there is no information available on the LOS backgrounds and qualifications of the three attendees at the December 1973 organizational session. The South Korean with perhaps the greatest LOS expertise is Choon-ho Park. He chose not to participate officially in Seoul's LOS negotiations, but may exert some behind-the-scenes influence.

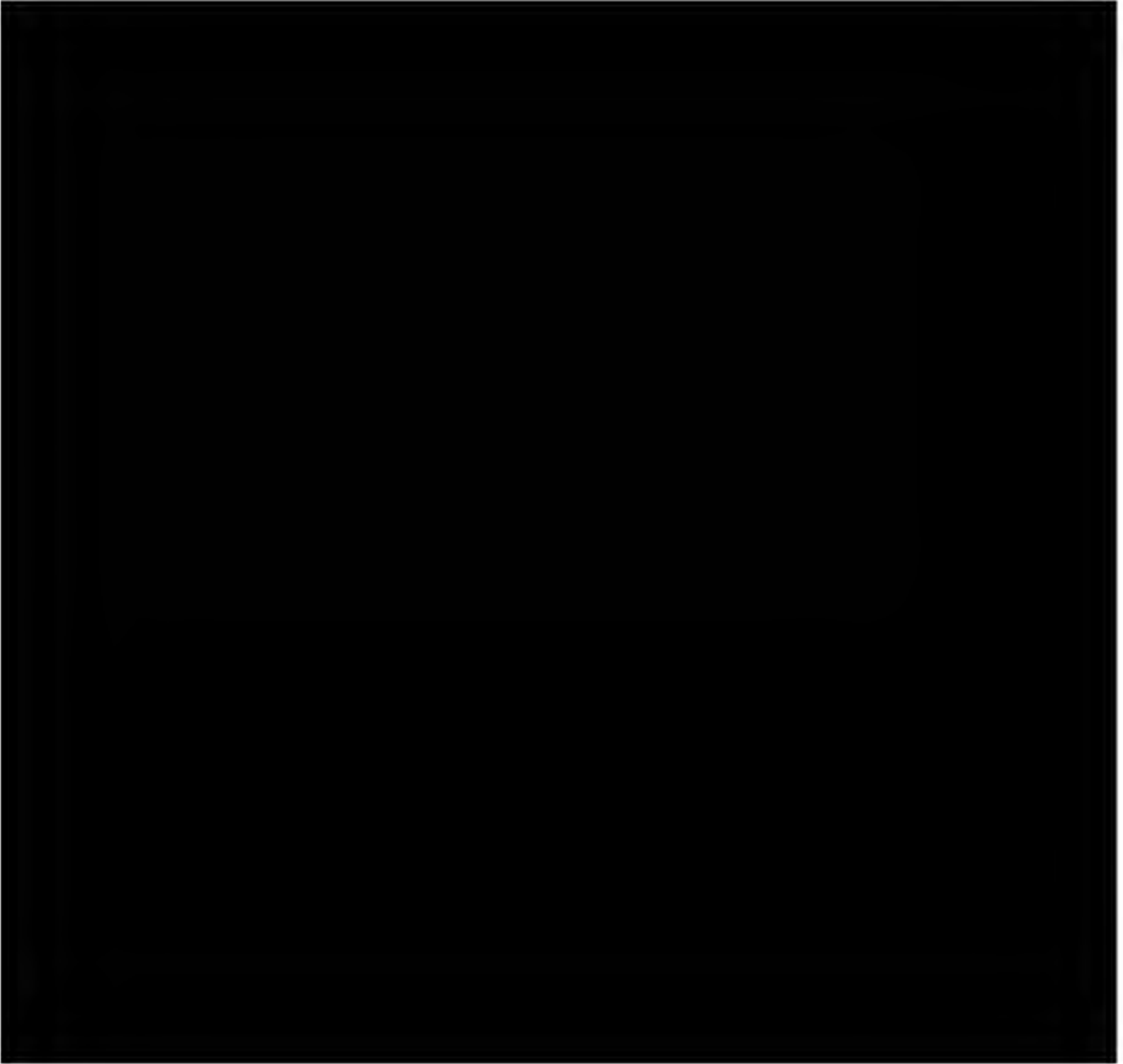
Park has written extensively on Yellow Sea and East China Sea LOS matters, particularly the current oil exploration activities. He delivered a paper in November 1973 at the LOS seminar sponsored by the American Embassy in Seoul. Dr. Park supports a 12-mile territorial sea provided right of free transit for all ships and aircraft is secured. He suggested that international safety standards be applied to straits less than 24 miles wide and that transiting craft be held liable for damages resulting from violation of traffic rules. He also called for complete rejection of exclusive economic and fishery zones and patrimonial seas. It is the Embassy's opinion that Dr. Park's colleagues considered his views extreme.

Choon-ho Park, is currently a Fellow at the Woodrow Wilson Center for International Studies in Washington, D.C. Park received a B.A. from Seoul National University in 1959, a Diploma from Edinburgh University in 1965, and a Ph. D. from Edinburgh's Faculty of Law in 1971. Most recently he was a Research Fellow, East Asian Legal Studies, Harvard Law School.

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The three South Korean delegates who attended (as observers) the organizational session of the Conference are:

Mr. Tae Hyuk HAM, Counsellor, Permanent Observer to the UN; Mr. Joung Binn LEE, First Secretary, Permanent Observer to the UN; and H.E. Mr. Tong Jin PARK, Ambassador Extraordinary and Plenipotentiary, Permanent Observer to the UN. (The name and title are as they appear in the latest UN listing.)



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Part II - Background Information

GEOGRAPHY:

World region: East Asia
Category: coastal
Bordering states: North Korea
Bordering bodies of water: Sea of Japan, Western Korea Strait, Yellow Sea, East China Sea
Bordering semiencllosed sea: Sea of Japan, Yellow Sea, East China Sea
Bordering straits: Western Korea Strait (23.0 n. m.), Cheju Strait (13.3 n. m.)
Area of continental shelf: 71,300 sq. n. m., shared with China, North Korea, Japan, Taiwan
Area to 200 n. m. limit: 101,600 sq. n. m., shared with China, North Korea, Japan
Area to edge of continental margin: 93,300 sq. n. m.
Coastline: 1,500 m.
Land: 38,000 sq. m.
Population: 33,390,000

INDUSTRY AND TRADE:

GNP: \$9.8 billion, \$300 per capita (1972)
Major industries: textiles and clothing, food processing, chemical fertilizers, chemicals, plywood, coal
Exports: \$1.6 billion (f.o.b., 1972); clothing and textiles, veneer and plywood, wigs, fish products
Imports: \$2.5 billion (c.i.f., 1972), machinery, textiles, electrical equipment, crude petroleum, wood, pulp, paper, transport equipment
Major trade partners: exports - U.S. 47%, Japan 22%; imports - Japan 39%, U.S. 28% (1972)
Merchant marine: 134 ships (1,000 GRT or over) totaling 906,700 GRT; 85 cargo (including 1 combination cargo-training), 23 tanker, 14 bulk, 12 specialized carrier

MARINE FISHERIES:

Catch: 1,343,000 metric tons, \$262 million (1972 est.)
Economic importance: provides 60%-70% of country's animal protein and 9% of exports; provides employment and food locally
Other fishing areas: Japan, U.S., El Salvador, Uruguay
Species: many coastal species, tuna, Alaska pollack
Other countries fishing off coast: Japan

PETROLEUM RESOURCES:

No known crude oil or natural gas production or proved recoverable reserves; potential offshore reserves are estimated roughly at 10-100 billions of 42-gal. bbl. or 1,500-15,000 millions of metric tons crude oil, and 10-100 trillions of cubic feet or 300-3,000 billions of cubic meters of natural gas

NAVY:

Ships: 10 destroyer-type vessels, 32 coastal and harbor patrol, 12 mine warfare, 95 amphibious ships and craft, 71 auxiliary and service craft

GOVERNMENT LEADERS:

President Pak Chong-hui; Prime Minister Kim Chong-pil; Minister of Foreign Affairs Kim Tong-cho

PRESENT OCEAN CLAIMS:

<u>Type</u>	<u>Date</u>	<u>Terms</u>	<u>Source/Notes</u>
Territorial Sea	1952		President's Proclamation, Jan. 18, 1952 <i>Created geographic limits of 20-200 m. for state control; provides that "declaration of sovereignty over the adjacent seas does not interfere with the rights of free navigation on the high seas."</i>
Continental Shelf	1952	20-200 m.	President's Proclamation Jan. 18, 1952 <i>Established "Rhee Line."</i>
	1970		Presidential Decree No. 5020, May 30, 1970 <i>Provided for 6 concession blocks in Yellow Sea, East China Sea, and Western Korea Strait.</i>
	1974		Agreement Between the Republic of Korea and Japan Concerning the Establishment of Boundaries in the Northern Part of the Continental Shelf Adjacent to the Two Countries, Jan. 30, 1974 <i>Delimits shelf claim in Western Korea Strait.</i>

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PRESENT OCEAN CLAIMS (cont'd):

<u>Type</u>	<u>Date</u>	<u>Terms</u>	<u>Source/Notes</u>
Exclusive Fishing	1952-54	20-200 m.	Japan-Republic of Korea Fisheries Agreement, Jun. 22, 1965 <i>Established joint conservation zone off Korean coast and recognized each has right to establish exclusive fishing zone of 12 m.</i>
Fisheries Conservation	1953		Fishery Resources Protection Law, Dec. 12, 1953

MULTILATERAL CONVENTIONS:

International Convention for the Safety of Life at Sea
 Agreement for the Establishment of the Indo-Pacific Fisheries Council
 Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water
 Convention on the Inter-Governmental Maritime Consultative Organization
 Convention on the International Hydrographic Organization

BILATERAL CONVENTIONS:

Japan-Republic of Korea - Agreement on Fisheries
 Japan-Republic of Korea - Agreement Between the Republic of Korea and Japan Concerning the Establishment of Boundaries in the Northern Part of the Continental Shelf Adjacent to the Two Countries
 Japan-Republic of Korea - Agreement Between the Republic of Korea and Japan Concerning the Establishment of Boundaries in the Southern Part of the Continental Shelf Adjacent to the Two Countries

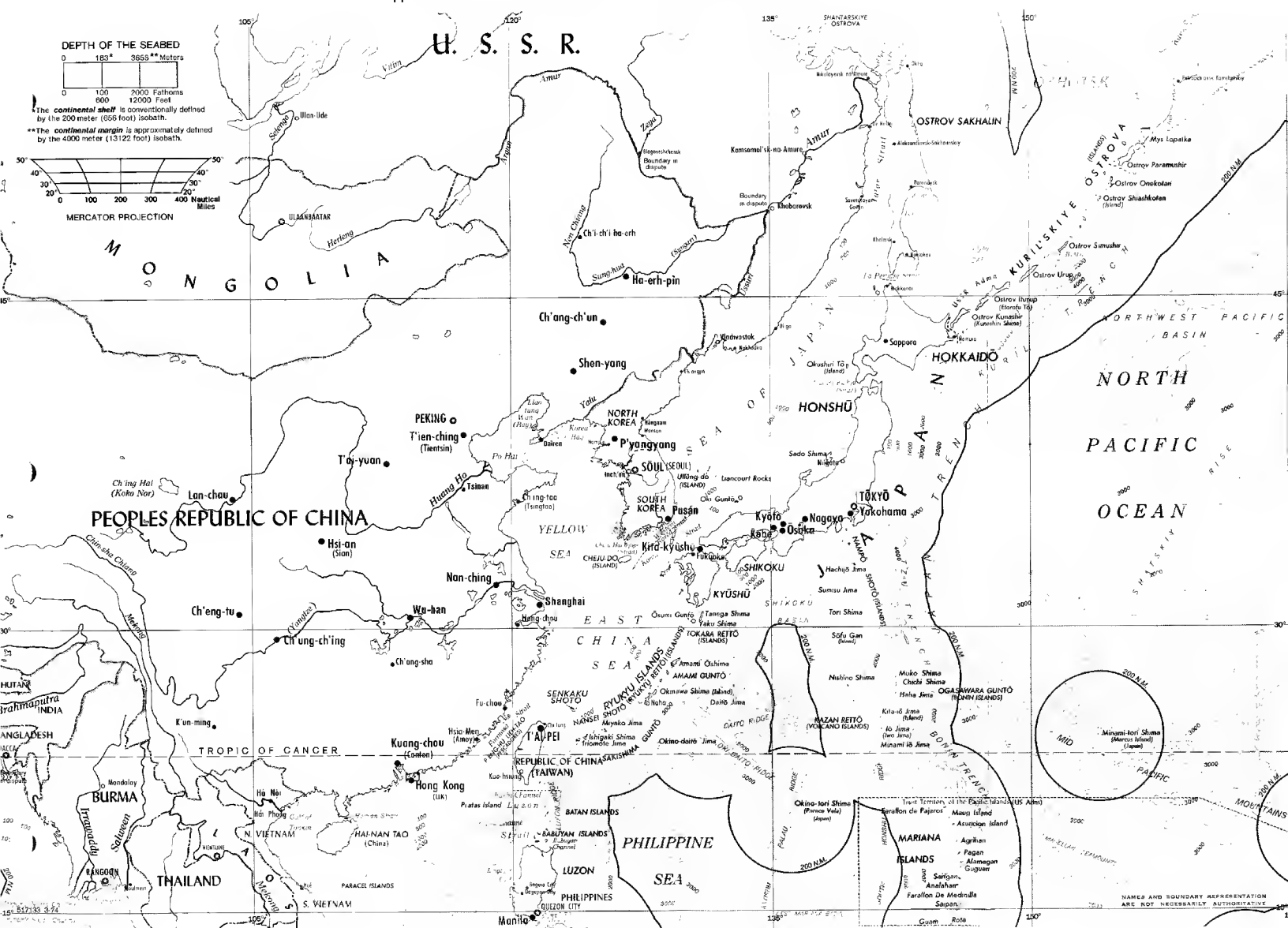
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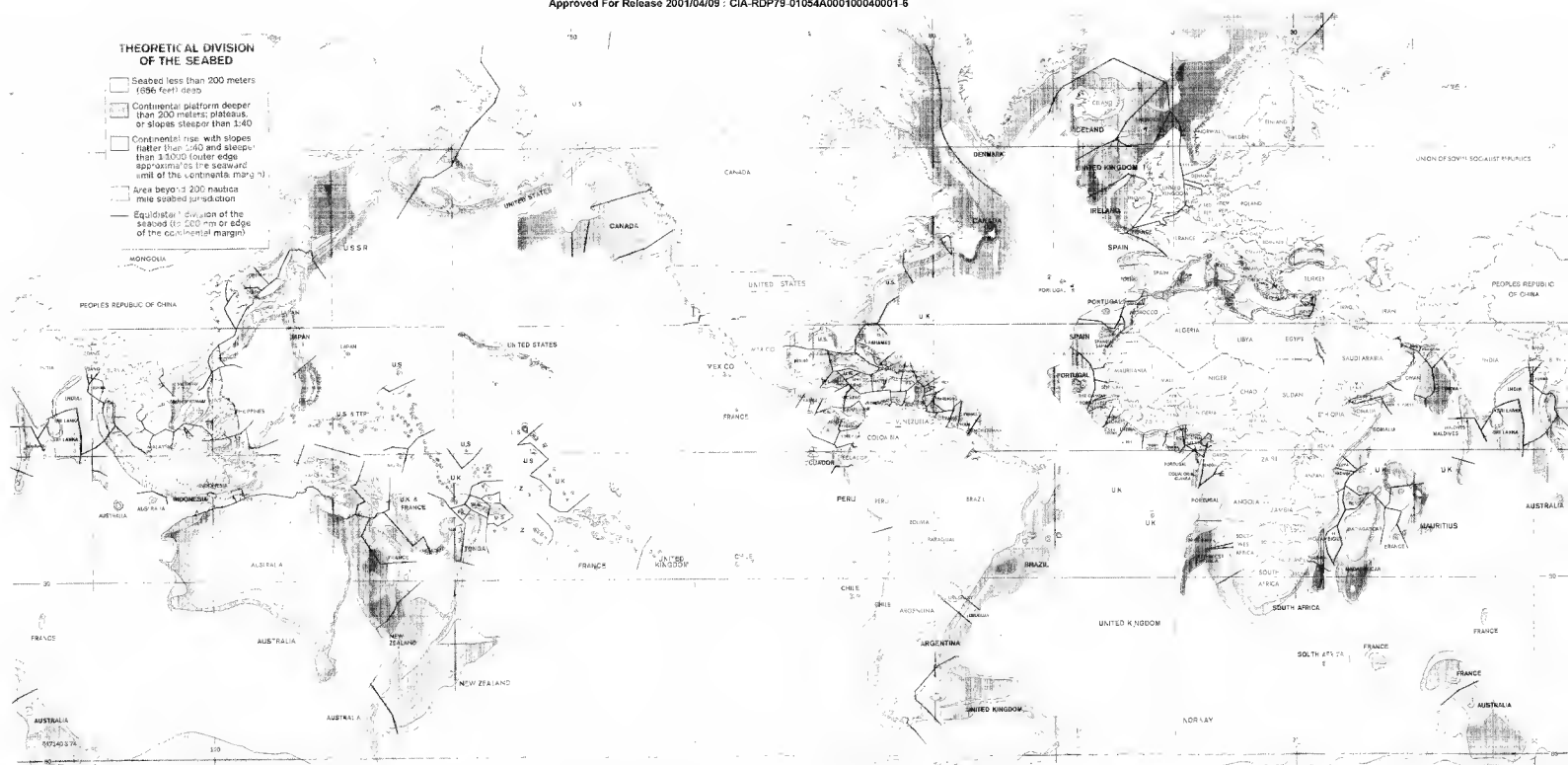
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MEMBERSHIP IN ORGANIZATIONS RELATED TO LOS INTERESTS:

ADB Asian Development Bank
 ASPAC Asian and Pacific Council
 ECAFE Economic Commission for Asia and
 the Far East
 FAO Food and Agriculture Organization
 GATT General Agreement on Tariffs and Trade
 IAEA International Atomic Energy Agency
 IBRD International Bank for Reconstruction
 and Development (World Bank)
 ICAO International Civil Aviation
 Organization
 IDA International Development Association
 (IBRD Affiliate)
 IFC International Finance Corporation
 (IBRD Affiliate)
 IHB International Hydrographic Bureau
 IMCO Inter-Governmental Maritime
 Consultative Organization
 IMF (FUND) International Monetary Fund
 INTELSAT International Telecommunications
 Satellite Consortium
 INTERPOL International Criminal Police
 Organization
 IPU Inter-Parliamentary Union
 ITU International Telecommunication Union
 UNESCO United National Educational, Scientific,
 and Cultural Organization
 WHO World Health Organization
 WMO World Meteorological Organization
 Asian Parliamentary Union
 Colombo Plan
 Geneva Conventions of 1949 for the
 protection of war victims
 U.N. Special Fund
 South Korea does not hold U.N.
 membership but the government has
 a permanent observer in New York,
 and South Korea is a member of
 most U.N. specialized agencies

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